

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

February 17, 2012

Lyle W. Cayce
Clerk

No. 11-20251

Conference Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE DELAPAZ ESCOBAR, also known as Jose DelaPaz Escobar,

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:10-CR-822-1

Before HIGGINBOTHAM, GARZA, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

The Federal Public Defender appointed to represent Jose Delapaz Escobar has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Escobar has filed a response. To the extent that Escobar's claims of ineffective assistance relate to his substantive sentencing claims concerning the 16-point sentencing enhancement under U.S.S.G. § 2L1.2(b)(1)(A)(ii) and the calculation of his criminal history points based on his prior sentences under

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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§ 4A1.1 and § 4A1.2, these claims present no nonfrivolous issue. *See Clark v. Collins*, 19 F.3d 959, 966 (5th Cir. 1994) (counsel does not render ineffective assistance by failing to make meritless objections). To the extent that Escobar’s claims of ineffective assistance of counsel go beyond that, the record is insufficiently developed to allow consideration at this time of Escobar’s claims; such claims generally “cannot be resolved on direct appeal when [they have] not been raised before the district court since no opportunity existed to develop the record on the merits of the allegations.” *United States v. Cantwell*, 470 F.3d 1087, 1091 (5th Cir. 2006) (internal quotation marks and citation omitted). We have reviewed counsel’s brief and the relevant portions of the record reflected therein, as well as Escobar’s response. We concur with counsel’s assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, the motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.